



# ATTORNEY INFORMATION BULLETIN

## U.S. BANKRUPTCY COURT EASTERN DISTRICT OF CALIFORNIA *December 1998*

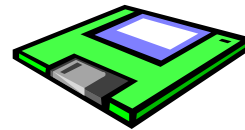
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### Notice Of Revised Guidelines For Preparation Of Master Address Lists And Revised Diskette Master

In November 1997, the Clerk's Office implemented a policy requiring debtors represented by legal counsel, and those whose petitions had been prepared by a bankruptcy petition preparer, to submit an electronic Master Address List on diskette with the traditional paper Master Address List (often referred to as the "mailing matrix" or "creditor matrix"). Since that time, the readable diskettes provided by debtors' attorneys and bankruptcy petition preparers have been used as the source record for mailing and are maintained as a part of the case file. In these cases, the Master Address List on paper has served as the "back-up" to be used only when the Court's computer system is unable to read the submitted diskette.

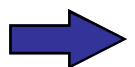
The vast majority of diskettes currently submitted with petitions have been properly prepared and can be read by the Court's equipment.



Additionally, Clerk's Office staff has developed a program to print Master Address Lists submitted on diskette for placement in the case file. With this capability, it is no longer necessary to retain the diskettes. As a result, beginning December 16, 1998, diskettes will be returned, together with a print-out of the Master Address List submitted on the diskette, to the filing party with their copies of the petition. Furthermore, the paper copy Master Address List will no longer be required in these cases.

Forms EDC 2-190, *Guidelines for Preparation of Master Address Lists*, and EDC 2-195, *Diskette Master Address List Specifications*, have been revised to reflect these, and other, changes. Under the revised guidelines,

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a Master Address List, either on diskette or on paper, must still be filed in every case. Debtors (*regardless of legal representation*) whose petitions are prepared by an attorney or by a bankruptcy petition preparer will be required to submit their Master Address Lists in electronic form on diskette. All other debtors may submit either an electronic list on diskette or a hard-copy list on paper. With respect to diskette specifications, the Clerk's Office will continue to accept Master Address Lists submitted on 5¼ inch diskettes through the end of 1998 only. Effective January 4, 1999, only 3½ inch diskettes will be accepted. Finally, forms EDC 2-098, *Verification of*

*Master Address List on Diskette*, and EDC 2-099, *Verification of Master Address List on Paper (Creditor Matrix)*, have been combined and replaced by a single new form, EDC 2-100, *Verification of Master Address List*.

You can view or print the revised guidelines, revised diskette specifications, and new verification form from our web site at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov). Copies of these documents are also available at any divisional Clerk's Office. Questions concerning the preparation and submission of Master Address Lists should be directed to the Deputy-in-Charge or Operations Coordinator in the appropriate divisional office.

## [New Legislation Affecting Dischargeability of Student Loans](#)

On October 7, 1998, the President signed into law the "Higher Education Amendments of 1998," a bill to extend the authorization of programs under the Higher Education Act of 1965. The legislation, which reauthorize higher education programs through 2003, also effects a significant change with respect to the dischargeability of student loans under the Bankruptcy Code.



The legislation amends 11 U.S.C. § 523(a)(8) to make nondischargeable all student loans in cases under chapter 7 and chapter 13 and student loans in cases under chapter 11 where the debtor is an individual, *unless* excepting the debt from discharge would impose an undue hardship on the debtor and the debtor's dependents. The legislation also eliminates the existing exception to the nondischargeability provisions for educational loans that first came due more than seven years before the filing of the bankruptcy petition. As amended, paragraph 8 of 11 U.S.C. §523(a) reads (new language is in **bold** print; stricken text is underlined):

(8) for an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship, or stipend, unless

(A) such loan, benefit, scholarship, or stipend overpayment first became due before more than 7 years (exclusive of any applicable suspension of the payment before the date of the filing of the petition; or (B) **excepting such debt** from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents;

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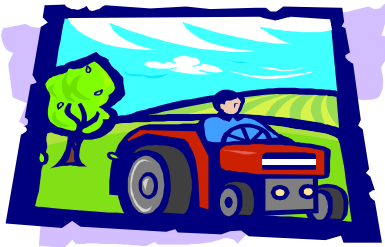


This amendment applies with respect to cases commenced under Title 11 on or after October 7, 1998, the date of enactment of the legislation.

cases, matters, and proceedings as if such chapter were continued in effect after April 1, 1999. (c) This section shall take effect on October 1, 1998.

Pub. L. No. 105-277 (1998).

## Bankruptcy Code Chapter 12 Reenacted

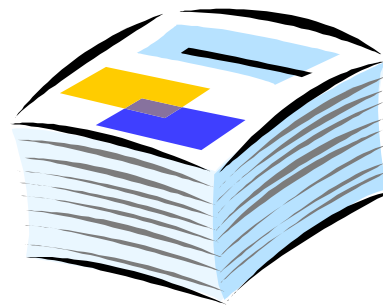


On Wednesday, October 21, 1998, the President signed into law H.R. 4328, the Omnibus Appropriations Act for 1999. This bill included a provision to reenact Chapter 12 of the Bankruptcy Code for a period of six months, effective October 1, 1998. The provision reads as follows:

SEC.149.(a)Chapter 12 of title 11 of the United States Code, as in effect on September 30, 1998, is hereby reenacted for the period beginning on October 1, 1998, and ending on April 1, 1999. (b) All cases commenced or pending under Chapter 12 of title 11, United States Code, as reenacted under subsection (a), and all matters and proceedings in or relating to such cases, shall be conducted and determined under such chapter as if such chapter were continued in effect after April 1, 1999. The substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the law applicable to such

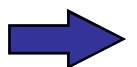
Chapter 12, which allows family farmers with regular income to adjust their debts, had been repealed by prior law on October 1, 1998. See Pub. L. No. 99-554, 100 Stat. 3124 (1986), as amended by Pub. L. No.103-65, 107 Stat. 311 (1993).

## Bankruptcy Petition Forms Package Available



The Clerk's Office has prepared a forms package containing the Official Bankruptcy Forms, locally required bankruptcy forms, case filing information and instructions. The forms package is available on our web site [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov). In the alternative, copies of the package may be purchased at all divisional Clerk's Offices for \$3.00 each.

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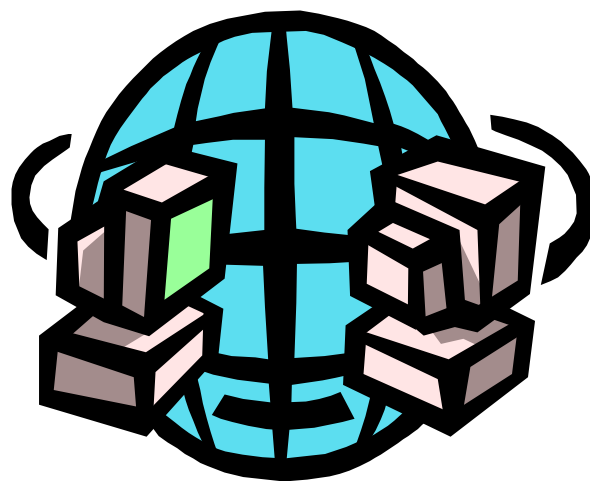


## Web Site Improvements

The U.S. Bankruptcy Court for the Eastern District of California's Internet web site is located at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov). Due to the development and addition of new features, it is now possible to easily obtain more up-to-date information from our web site than ever before. Hearing calendars and items removed from calendar lists are now updated daily. Likewise, many forms and publications may now be downloaded in either Adobe Acrobat PDF or Corel WordPerfect 8 formats for ease of use and distribution. Finally, a number of local forms can be prepared on-line and printed for filing with the Clerk's Office, eliminating the use of a typewriter to complete a number of local forms. Just "fill-in-the-blanks" and print the various forms directly from the Internet browser: *Proof of Claim, Adversary Proceeding Cover Sheet, Subpoena in an Adversary Proceeding, Subpoena for Rule 2004 Examination, Subpoena in a Case under the Bankruptcy Code, Wage Order - Modesto, Amendment Cover Sheet, Change of Address, Returned Documents, Petition for Admission to Practice Pro Hac Vice, Order Confirming Plan, Valuing Collateral and Avoiding Liens, Chapter 13 Trustee Electronic Transfer Authorization.*

Other changes to the web site include the addition of a counter to track the number of visitors to the site and a date stamp on items posted under "What's New."

We are continually developing new features to make the web site your primary source for bankruptcy court information. Please visit our site often to see it grow to include more information, search features, and interactivity. Comments, suggestions, and questions about the web site can be forwarded to the web master via email at [webmaster-cae@ce9.uscourts.gov](mailto:webmaster-cae@ce9.uscourts.gov).

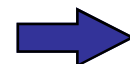


## Second Standing Chapter 13 Trustee Selected For Sacramento

Jan Johnson has been selected to serve as a second standing chapter 13 trustee for the Sacramento Division. Mr. Johnson has been the standing trustee in San Juan, Puerto Rico and the Virgin Islands since 1989, where he supervised 50 employees and administered over 24,000 active cases.

Jan Johnson began working with standing chapter 13 trustee Larry Loheit's office on December 1, 1998. Mr. Johnson will set up his own chapter 13 operation during the first quarter of 1999.

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## PACER Update

Search Speed - The court has made changes to the new PACER system in an effort to increase the speed of case number and/or name searches. These changes were made because searches were often taking more than a minute to find a case number or name

In order to speed up the searches, we have modified the search engine to accept only CASE SENSITIVE input at the Case Number/Name prompt. This means that if you are looking for John H. Smith, you must now enter the name as "Smith, John H." rather than "smith, john h." as previously entered. By using the correct capitalization, searches have been reduced from more than a minute to approximately 10 seconds.

Additional Modems - We now have six modems attached to the PACER system. These modems will handle data transfer speeds of 38,400 BPS or lower. Upon our move to the new courthouse, we will be increasing the modem pool to nine.

Potential problems - We have received calls from PACER users who have purchased new computers and have since found they are unable to connect to PACER. We have researched the problem and have determined that the new 56K X2 modems MAY not talk to PACER modems unless properly configured. The new 56K modems are pre-configured to use the new v.90 modulation standard, while the PACER modems cannot be configured for v.90.

If you purchase a new 56K modem and are unable to connect to PACER, simply change your modem set up (modulation type) to v.34 and this will re-establish your connection to PACER.

If you have any questions about PACER, please contact the Automation Help Desk at 916-498-5579.

## New Sacramento Courthouse



The Sacramento Division Clerk's Office and Bankruptcy Judges are scheduled to move beginning January 14, 1999, and expect to be open for business in the new U.S. Courthouse, located at 501 I Street in Sacramento, on January 19, 1999.

You are hereby notified that hearings in Sacramento Division bankruptcy cases and proceedings will be held in the following courtrooms at 501 I Street on or after January 19, 1999:

### Department A, Judge David E. Russell

Courtroom 28  
501 I Street, 7th Floor  
Sacramento, CA 95814

### Department B, Judge Jane Dickson McKeag

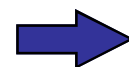
Courtroom 32  
501 I Street, 6th Floor  
Sacramento, CA 95814

### Department C, Judge Christopher M. Klein

Courtroom 35  
501 I Street, 6th Floor  
Sacramento, CA 95814

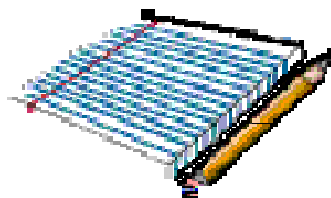
Beginning January 19, 1999, the Clerk's Office will be located in Suite 3-200, on the third floor at 501 I Street, and may be reached by calling (916) 930-4400. Updates concerning the Sacramento Division's move will be posted to our web site at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) as additional information is received.

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## 1998 Bar Survey Results



In early April 1998, the Clerk's Office conducted its third bar survey since 1991. Much like the last survey conducted in 1994 for the Sacramento Division and 1995 for the Fresno and Modesto Divisions, this survey was mailed to a representative sampling of 519 lawyers, panel trustees, paralegals, and secretaries that are considered frequent users of Clerk's Office services.

The survey instrument we used was very similar to the one that was developed for us by the School of Business Administration at California State University, Sacramento for our last survey conducted in 1994/95. The primary objective of that effort was to develop a valid and reliable survey instrument and research methodology that could be used on an on-going basis to monitor user satisfaction with the Clerk's Office. This year's survey was our initial use of that basic instrument, with some modifications to reflect changes in automation support and the type of service provided.

Of the 519 survey instruments distributed in April, 185 were completed and returned, giving us a 36% response rate. Specifically, of the 216 surveys distributed in Sacramento, 96 were returned for a 44% return rate; in Fresno, 37 of the 123 surveys distributed were returned for a 30% return rate; and in Modesto, 52 of the 180 surveys distributed were returned for a 29% return rate. This rate of return is consistent with the 37% overall response rate we experienced in our 1994/95 survey.

Of the surveys returned, 92% indicated an overall rating of very satisfied/satisfied for services provided by the office. The average response in all rating categories was satisfied or better, however the response in two rating categories – quality and reliability of the coin-operated copy machines in our public lobbies – suggested improvement was desirable.

The Clerk's Office will continue using surveys to help identify areas of improvement for better customer service. Thank you for your responses.

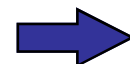
## Fresno Division Area Code Changed

Area code 209 has been divided. The Clerk's Office in Fresno has changed from area code 209 to area code 559. You may continue to use area code 209 until May 1999 when use of area code 559 will become mandatory. The Modesto Clerk's Office will continue to use area code 209.

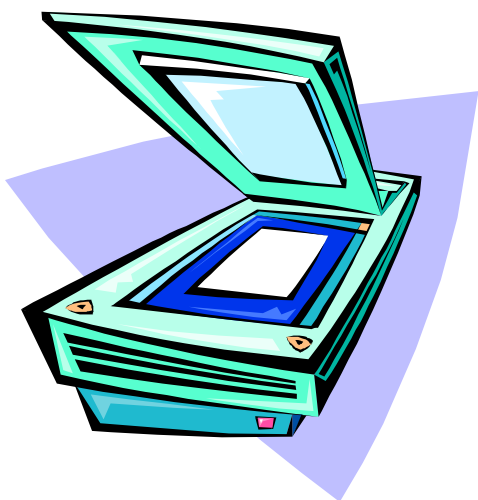


For more information contact Pacific Bell at (residential customers) (800) 310-2355 or (business customers) (800) 750-2355. You may also access information on the Internet at [www.syp.com](http://www.syp.com) or [www.pacbell.com/about-pb/areacodes/areacodes-209.html](http://www.pacbell.com/about-pb/areacodes/areacodes-209.html).

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## Electronic Case Files



During the first half of 1999, the Eastern District of California will embark upon a new era in case files management by implementing our Electronic Case Files Project. During the initial phase of the Project, all documents filed with the Court will be scanned into our document imaging system. These images will constitute an “electronic” case file (ECF).

From the Court’s Internet web site, you will be able to view the documents contained in an ECF by clicking on embedded hyperlinks in the docket. In addition, all Clerk’s Office and judicial staff will use the ECF in lieu of the paper copy to process the document, making the documents easier to manage, resulting in greater productivity and effectiveness.

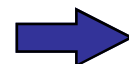
The initial phase of the Project will begin shortly after the move to the new building. A second phase, that will involve the ability to file documents electronically with the court will be added approximately four to six months after initial implementation.

The imaging phase of the Project will provide you and your staff with greater access to court documents and materials while the ability to electronically file documents will save you time and the cost of transporting materials to and from the courthouse.

In order to access the ECF system, you will need a PC capable of running Windows 95, 98, or NT Workstation 4.0. Although less robust systems MAY run the necessary viewer software, which will be downloadable free of charge from our web site, we recommend a Pentium 133 MHZ or higher with 32 MB RAM with a monitor set at 1024 x 768 x 256 resolution. In addition, of course, you will need an Internet service provider. Additional information will be posted to our web site in early 1999.



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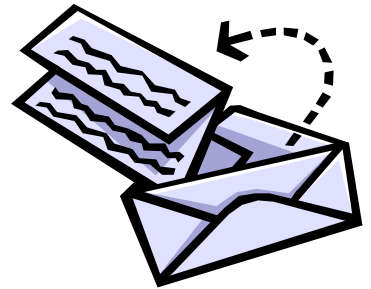
## Service List For Notice Of Entry Of Judgment

Occasionally we receive labels and proofs of service requesting that we serve notice of entry of order on all creditors listed in a case. Local Rule 9022-1 states that "... the requirements of FRBP 9022 shall be satisfied by service of the notice of entry of judgment or of order only on those parties who appeared in connection with the judgment or order." A party would be correctly listed on the proof of service of notice of entry if they appeared at the hearing or if they filed any document other than a non-opposition in the matter. Please note, the Clerk's Office does not serve notice of entry of orders continuing hearings submitted by parties.

When a proposed judgment or order is submitted, the prevailing party shall submit:

- I. Self-adhesive address labels containing the names and mailing addresses of the prevailing party and all parties who appeared in connection with the judgment or order;
- II. A proof of service of the notice of entry containing the names and mailing addresses of all parties to be served, completed in all respects except for the name of the person completing the service and the date served, which information shall be completed by the Clerk; and
- III. Sufficient copies of the proposed judgment or order for the parties to be served.

Please note, the Clerk will automatically serve notice of entry of order to all creditors upon entry of an order of dismissal, conversion, waiver of discharge, denial or revocation of discharge, and confirmation in Chapters 9, 11, and 12. No labels, proof of service, or copies are required



## Reminder On Chapter 13 Matters

Starting January 1, 1999, Judge Russell (Department A) will hear ALL chapter 13 matters at 2:00 p.m.

